

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ORACLE AMERICA, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 12-621 (RGA)
)	
GEOTAG, INC.,)	
)	
Defendant.)	

DECLARATION OF DAVID C. MCKONE

I, David C. McKone, hereby declare as follows

1. I am an attorney at Nixon Peabody LLP, counsel for Oracle America, Inc. (“Oracle”).
2. Oracle is a Delaware Corporation based in California and has been a party to prior actions in this Court.
3. On or about April 5, 2012, Oracle acquired Taleo Corporation.
4. Oracle (and Taleo before it) manufactures and supplies talent management software, including job search database software that allows job seekers to search for jobs by geographic area.
5. In most instances, Oracle hosts the job searching software and the job search databases on its own servers on behalf of its customers. In those cases, job seekers searching for jobs on Oracle’s customers’ websites are re-directed to Oracle’s servers where the actual search is performed.

6. Exhibit 1 is an excerpt from a true and correct copy of GeoTag's Jan. 4, 2011, Amendment No. 1 to Form S-1 Registration Statement filed with the United States Securities and Exchange Commission.

7. GeoTag has sued over 500 defendants in 19 lawsuits in the United States District Court for the Eastern District of Texas alleging infringement of U.S. Patent No. 5,930,474 ("the '474 patent"). Those cases, and their filing dates, are:

- a. 2:2010-cv-00265 (filed July 23, 2010);
- b. 2:2010-cv-00272 (filed July 26, 2010);
- c. 2:2010-cv-00569 (filed Dec. 17, 2010);
- d. 2:2010-cv-00570 (filed Dec. 17, 2010);
- e. 2:2010-cv-00571 (filed Dec. 17, 2010);
- f. 2:2010-cv-00572 (filed Dec. 17, 2010);
- g. 2:2010-cv-00573 (filed Dec. 17, 2010);
- h. 2:2010-cv-00574 (filed Dec. 18, 2010);
- i. 2:2010-cv-00575 (filed Dec. 18, 2010);
- j. 2:2010-cv-00587 (filed Dec. 22, 2010);
- k. 2:2011-cv-00175 (filed Mar. 15, 2011);
- l. 2:2011-cv-00403 (filed Sept. 13, 2011);
- m. 2:2011-cv-00404 (filed Sept. 13, 2011);
- n. 2:2011-cv-00405 (filed Sept. 13, 2011);
- o. 2:2011-cv-00421 (filed Sept. 15, 2011);
- p. 2:2011-cv-00424 (filed Sept. 15, 2011);
- q. 2:2011-cv-00425 (filed Sept. 15, 2011);

r. 2:2011-cv-00426 (filed Sept. 15, 2011);

s. 2:2012-cv-00043 (filed Jan. 26, 2012).

8. Attached as Exhibit 2 is an excerpt from a true and correct copy of the Complaint in Case No. 2:2010-cv-00571 in the United States District Court for the Eastern District of Texas.

9. Several defendants in the Texas litigations have sought indemnity from Oracle for alleged infringement of the '474 patent. Those defendants include Western Union, Herman Miller, Inc., Brinker International, The Gap Inc., Deere & Company, AT&T Mobility, LLC, Nordstrom, Inc., Target Corporation, Fifth Third Bank, Macy's Inc., Petco Animal Supplies, Inc., V.F. Corp., Hallmark Cards, Inc., and Academy Ltd. Each of these defendants except Hallmark Cards, Inc., was sued prior to October 10, 2011.

10. Taleo received its first indemnity demand on or about October 11, 2011, from Western Union. According to Western Union, around the time of its demand, GeoTag had communicated to Western Union accusations of infringement directed at Western Union's job search database. On or about November 7, 2011, Taleo received another indemnity demand from Herman Miller, Inc., also stating that, around the time of its demand, GeoTag had communicated to Herman Miller accusations of infringement directed at Herman Miller's job search database. Taleo (and now Oracle) received similar demands from Brinker International, The Gap Inc., Deere & Company, AT&T Mobility, LLC, Nordstrom, Inc., Target Corporation, Fifth Third Bank, Macy's Inc., Petco Animal Supplies, Inc., V.F. Corp., Hallmark Cards, Inc., and Academy Ltd. since that time.

11. In house counsel for Taleo, Josh Faddis, spoke by telephone with counsel for Levi Strauss & Co., a defendant in Texas action 2:10cv587, on April 18, 2012. Levi's counsel

informed him that GeoTag has accused Levi's of patent infringement based on a product supplied by Taleo to Accenture. Accenture resold the Taleo product to Levi's. According to Levi's attorneys, Levi's will be tendering an indemnity demand to Accenture based on the Taleo product. Oracle, in turn, expects to receive an indemnity demand from Accenture based on the Taleo product supplied by Accenture to Levi's.

12. On April 23, 2012, Dr. Pepper Snapple Group requested indemnity from Taleo.

13. GeoTag, Inc., and Dr. Pepper Snapple Group, Inc., have settled. GeoTag's claims against Dr. Pepper Snapple Group were dismissed on May 17, 2012. The Product Locator infringement claims were dismissed with prejudice. All other claims and counterclaims were dismissed without prejudice. *See* 2:10-cv-00572-MHS D.I. 378.

14. Macy's, Inc., Petco Animal Supplies, Inc., V.F. Corp., and Academy Ltd. demanded indemnity after the Court's May 18, 2012, denial of Taleo's Motion to Intervene in *Microsoft Corp. v. GeoTag Inc.*, 1:11-cv-00175-RGA.

15. The Form 10-K public filings of the Oracle customers seeking indemnity in the Texas actions show that:

- a. Western Union is incorporated in Delaware and has a principal place of business in Colorado.
- b. Herman Miller, Inc., is incorporated in Michigan and has a principal place of business in Michigan.
- c. Brinker International is incorporated in Delaware and has a principal place of business in Texas.
- d. The Gap Inc. is incorporated in Delaware and has a principal place of business in California.
- e. Deere & Company is incorporated in Delaware and has a principal place of business in Illinois.
- f. AT&T Mobility, LLC, is incorporated in Delaware and has a principal place of business in Texas.

- g. Nordstrom, Inc., is incorporated in Washington and has a principal place of business in Washington.
- h. Target Corporation is incorporated in Minnesota and has a principal place of business in Minnesota.
- i. Fifth Third Bank is incorporated in Ohio and has a principal place of business in Ohio.
- j. Macy's Inc. is incorporated in Delaware and has a principal place of business in Ohio.
- k. Petco is incorporated in Delaware and has a principal place of business in California.
- l. VF Corp. is incorporated in Pennsylvania and has a principal place of business in North Carolina.
- m. Hallmark Cards Inc. is incorporated in Missouri and has a principal place of business in Missouri.
- n. Levi Strauss & Co. is incorporated in Delaware and has a principal place of business in California.
- o. Dr. Pepper Snapple Group is incorporated in Delaware and has a principal place of business in Texas.
- p. Academy Ltd. Is incorporated in Texas and had a principal place of business in Texas.

16. Attached as Exhibit 3 is an excerpt from a true and correct copy of GeoTag's Answer in Case No. 1:11-cv-00175-RGA (D.I. 36) in the United States District Court for the District of Delaware.

17. Attached as Exhibit 4 is a true and correct copy of GeoTag's Annual Franchise Tax Report, dated October 7, 2011, filed with the Secretary of State of Delaware.

18. Attached as Exhibit 5 is an excerpt from a true and correct copy of the transcript from the Court's Mar. 6, 2012, Hearing in Case No. 1:11-cv-00223-RGA in the United States District Court for the District of Delaware.

19. Attached as Exhibit 6 is a true and correct copy of a communication from counsel for GeoTag agreeing to accept service of Taleo's Complaint on behalf of GeoTag.

20. GeoTag has not sued either Taleo or Oracle in the United States District Court for the Eastern District of Texas. GeoTag has not amended any of the complaints of the above mentioned Texas actions to allege patent infringement by Taleo or Oracle.

21. Oracle hosts job search databases, and the search tools interfacing with them, for at least Western Union, Herman Miller, Brinker International, Gap Inc., Deere & Company, Nordstrom, Target, Macy's, Levi Strauss, and V.F. Corp.

I declare under the laws of the United States of America and penalty of perjury that the foregoing is true and correct.

Executed this 9th day of July, 2012, in Chicago, Illinois.

/s/David C. McKone

David C. McKone